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FR-4915-01-P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36071]

Delmarva Central Railroad Company—Lease and Operation Exemption with Interchange  
Commitment—Norfolk Southern Railway Company

Delmarva Central Railroad Company (DCR), a noncarrier, has filed a verified notice of exemption under 49 C.F.R. § 1150.31 to lease and operate approximately 161.59 miles of track (the Line) currently owned and operated by Norfolk Southern Railway Company (NSR) consisting of (1) a line of railroad extending between Porter, Del., at milepost DM 14.4 and Pocomoke, Md., at milepost DM 128.19; (2) a line of railroad extending between Harrington, Del., at milepost IR 0.0 and Frankford, Del., at milepost IR 39.0; and (3) various industrial tracks.<sup>1</sup>

This transaction is related to a concurrently filed verified notice of exemption in Carload Express, Inc.—Continuance in Control Exemption—Delmarva Central Railroad, Docket No. FD 36072, in which Carload Express, Inc., seeks to continue in control of DCR upon DCR's becoming a Class III rail carrier.

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<sup>1</sup> These segments include the Oxford Industrial Track between mileposts VQ 0 and VQ 0.4, the Cambridge Industrial Track between mileposts QT 0.0 and QT 2.3, the Willards Industrial Track between mileposts MW 42.05 and MW 45.7, the Mardella Industrial Track between mileposts MW 41.4 and MW 42.05, the Mill Street Industrial Track between mileposts MR 0.0 and MR 0.6, and the Chrisfield Industrial Track between mileposts KK 0.0 and KK 1.2. DCR notes that the parties do not intend to convey common carrier authority over such industrial tracks or convert such industrial tracks into 49 U.S.C. § 10901 lines.

DCR states that it has reached an agreement in principle with NSR to lease and operate the Line upon the effective date established by the Board and that a final version of the agreement is expected to be executed shortly. As required by 49 C.F.R.

§ 1150.33(h), DCR has disclosed in its verified notice that the agreement contains interchange commitments, including lease credits, and that the agreement affects interchange at Tasker, Del. (near New Castle, Del.) and Clay, Del. (near Clayton, Del.). In addition, DCR has provided additional information regarding the interchange commitments as required by § 1150.33(h).<sup>2</sup>

DCR certifies that its projected annual revenues resulting from the transaction will not exceed those that would qualify it as a Class III rail carrier. DCR notes, however, that its annual operating revenues will exceed \$5 million. Accordingly, in compliance with 49 C.F.R. § 1150.32(e), DCR/NSR posted the required 60-day labor notice of this transaction at the workplaces of NSR employees on the Line on October 18, 2016, and has served that notice on the national offices of the labor unions for those employees' unions as of that same date. On October 18, 2016, DCR also filed a letter with the Board certifying its compliance with the advance notice requirements.

The transaction may be consummated on or after December 17, 2016, the

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<sup>2</sup> DCR states that, for it to conduct operations, it will enter into various interchange agreements, some of which will include limited trackage rights to be used solely for interchange purposes. DCR notes, for example, to interchange at Tasker, DCR crews will need to operate over NSR and to interchange at Clay, NSR crews will need to operate over DCR.

effective date of the exemption (30 days after the verified notice of exemption was filed).

If the verified notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. § 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions for stay must be filed no later than December 9, 2016 (at least seven days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to Docket No. FD 36071, must be filed with the Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on William A. Mullins, Baker & Miller, PLLC, 2401 Pennsylvania Ave., N.W., Suite 300, Washington, DC 20037.

According to DCR, this action is categorically excluded from environmental review under 49 C.F.R. § 1105.6(c).

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Decided: November 28, 2016.

By the Board, Scott M. Zimmerman, Acting Director, Office of Proceedings.